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To: Microsoft ATR
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Subject: Microsoft Settlement

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The problems with MS reflect larger and very important issues on a national and international scale. What is the role of government in regulating huge multinational corporations? Why is there a growing pattern of manipulation and a widening gap between what corporations say and what they do? The recent emergence of unethical and probably illegal behavior at Enron and Anderson is only the latest of a number of known cases. There are certainly many more questionable but not publicly questioned situations. In the case of Microsoft, their pattern of disingenuous statements, distortions, and outright lies appears to be based upon their assumption that the average user does not understand information technology and the market dynamics of information technology, and that lawmakers and judges also don't understand. That pattern has been present since early in Microsoft's history. Most recently, they have added more "standard" American business practice, making large cash contributions to politicians, and hiring teams of lobbyists.

One of their main themes is that they are always doing whatever they do for the "benefit of the customer." They repeatedly make statements about innovation and competition and serving the interests of customers, but these statements fly in the face of their own history. They imply that customers are those who accept Microsoft big brother version of reality, and label others as frustrated competitors who resort to legal attacks rather than innovation, or the "cancer" of open source software such as Linux (which they cannot control or co-opt). Depending upon the specific context, at times the degree of hypocrisy seems to approach delusion. Microsoft has not been averse to using legal tactics, threats, and lawsuits to try to achieve their goal of complete domination.

Meanwhile, they continue to design their products and product strategies to create dependencies, using their control of the desktop operating system to undermine competing applications such as WordPerfect. For most users, there is not much difference between Word, Wordperfect, Ami Pro, or other word processing packages, spreadsheets, or presentation slide system. Why is then is Microsoft Office's market share so large?

In the same way Microsoft crushed Netscape they crushed WordPerfect, which at one time had similar market share as Netscape. Microsoft Office was pushed onto users using the same or similar tactics that were used to push IE onto users. Now that Microsoft has a monopoly not only with the operating system but with Office, they continue to manipulate users through technical issues such as file formats. For example, the default installation of Microsoft Office does not include the import filters for WordPerfect files. It is not unusual for Word users who receive a WP file to think that the file is damaged or incompatible because when they try to open a WP file, Word will generate a message that suggests something is wrong. Even if the user understands that it is easy for Word to import a WP file if the import filter is installed, they may not have convenient access to the Office CD to install the filter. These relatively small maneuvers nevertheless add up to continued pressure on users to use Office, further cementing this application stranglehold, while Microsoft might still claim that they "fully support" interoperability with other applications.

As person who bought his first PC in 1986 and has used different version of DOS, Windows, Mac, and Unix-based operating systems, and who has been involved with software development for many years, I have observed Microsoft's business practices from a technically intimate perspective. I have seen first hand phenomena such as Windows 3.1 generating an error with Digital Research DOS (DR-DOC). It seemed like sabotage then, and subsequent evidence indicates that it was in fact deliberate. I used disk compression utilities from a company that was subsequently put out of business by Microsoft's continuing "integration." I recall the out-of-court settlement where Microsoft paid over \$100 million to Stac, a disk compression vendor that had first worked with Microsoft and was then dumped by Microsoft. After dumping Stac, Microsoft released their own disk compression bundled with DOS, essentially taking away the market from Stac. It was technologically clear that Microsoft had stolen Stac's

intellectual property, but because the settlement was out-of-court, they never admitted any wrong-doing. One wonders if Bill Gates or Steve Allen or other at Microsoft really think they did anything wrong or not.

After Windows version 1 and 2, Windows 3.11 was finally usable, and did offer useful functionality. At that time Word Perfect was, arguably, the best word processing application available. Why then did every computer come with Microsoft Word? It was an inferior product for many years. It seems that it was because of Microsoft's bundling and pricing manipulations of PC manufacturers and distributors. It was not due to market demand, at that time. Microsoft understands very well the dynamics of market choice, and the pressures placed on customers when an increasing number of people use their products. Why did they change file formats with each new version of Word? They claim it was for technical reasons, but in typical Microsoft fashion, that claim is misleading. There may have some minor technical reasons, but the larger and obvious reason is to shift the dynamics in their favor. Why do they currently not provide conversion filters for Wordperfect as the default installation? As a person who continues to use Wordperfect, when I send files to colleagues, many of them are unable to import the files into Word, and because they do not understand the inner workings of Word and Microsoft's compulsion for market dominance, they tell me things like "Your file was bad," or "Word cannot import the file." Of course it is easy to install the import filter (if one can find the Windows CD). But for many people, this creates a significant barrier. This is one of the many ways that Microsoft uses their illegal monopoly to leverage even greater market share and to create false impressions that other software is inferior or incompatible.

Using revenue from their monopoly to give away products to destroy competing companies, such as Netscape, is an obvious example. Outright sabotage is perhaps a thing of the past. However, even recently they have been found by Kodak to have configured Windows XP in a manner to undermine Kodak and foster Microsoft products. Again, this is behavior that emerges in numerous ways, relentlessly using their monopoly in every possible way to expand their market range and control. Their fervent claims to be doing all this entirely for the customer border upon delusion. Surely all companies are trying their best to provide customers with great products. It just happens that one of them controls the core technology, the operating system, that other applications all depend upon. Their use of this was found to be illegal, and the appeals court affirmed this. Unfortunately, the decision to split the operating system and application parts of Microsoft into two companies, which is the only full remedy, has been reversed. It needs to be reinstated. Why is this the only remedy that will be effective? Why should be government and the courts undertake this draconian step? Why shouldn't we just "let the market decide?" There are many complex legal arguments, but I believe the main issue is simple. The antitrust law that is currently in place was based upon consideration of the role of government with respect to unfettered growth in the late 1800's and early 1900's of large corporations such as Standard Oil. This was a period that could be characterized as robber capitalism, where anything goes. It resulted in the establishment of industrial systems that provided consumers with good things. But it also concentrated power into the hands of a relatively small group. The relentless nature of power was recognized by our founding father, hence the checks and balances that are a fundamental part of our society. It is important that the balance of power be maintained. It is a serious issue for our future. If the distribution of power is no longer balanced, we risk adverse and even destructive consequences. Microsoft has been successful in lowering costs relative to early monopolies such as IBM, and being part of the rapid growth of personal computers (they claim they are responsible for this, but it is not hard to imagine that the demand was there and they rode the wave, rather than creating it). But the thinking and tactics they used to gain dominance were destructive to other companies and to customer choice all along, and now that they have even more power, all the evidence suggests that they will continue to use it in the same manner.

As another example of their thinking, it is now apparent that Microsoft

considers open source software such as Linux, Apache, and other software to be a threat to their market control. They have called open source software a "cancer." At the same time they make statements about the importance of being allowed to compete without restrictions. It would be fine and wonderful if Microsoft was to use their huge resources to compete on the basis of really improving their products. It is not fine and wonderful that they be allowed to continue using their monopoly to manipulate and force customers to use their products.

We use Microsoft Windows as our development and implementation platform. With Windows 2000 and XP, it has finally become a reasonably stable and effective operating system. However, I do not use Microsoft Office, Explorer, Microsoft development tools, Outlook, or other Microsoft products and tools. There are alternate products and tools that are not only equal but superior to Microsoft products and tools. However, each incremental step the Microsoft takes appears to be designed to increase the pressure to use Microsoft products and tools. We do not want to be forced to do so.

To provide some personal background, I am a licensed physician and Board Certified psychiatrist who also has a Master's degree in biostatistics. I was a tenure track faculty member at the Johns Hopkins School of Public Health with a joint appointment in the Johns Hopkins School of Medicine from 1988 to 1997. Since then I have been engaged as the President of Medical Decision Logic, Inc., a small medical and public health software company. Hence I consider the Microsoft situation from several perspectives, as an experienced user, a software designer and developer, from broader social and cultural perspectives, and from a psychiatric understanding.

Based upon Microsoft's long-standing pattern of behavior and relentless drive to greater market power, heedless of ethical and most recently legal rules, I conclude that the only remedy that can prevent continuation of the same behavior is a structural remedy that separates and frees Microsoft divisions to compete fairly in their markets. Simply put, the operating system group will be free to support all applications without engaging in discouragements and subtle sabotage for competing applications, and the application group will be free to create applications for all platforms, including Linux platforms. This would result in even greater contributions to the market and better choices for customers.

Any remedy or settlement that is not structural is unlikely to be effective, because otherwise Microsoft will continue to be Microsoft, a highly aggressive, unethical, and illegal monopoly that does not respect the government, the courts, or anyone who disagrees with them.

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